

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

564M0564

HOUSE ENGROSSED NO. **HB 1233** - 02/09/2006

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Bradford, Elliott, Gassman, Glover, Haley, Kroger, Lange, Sigdestad, and Van Norman and Senator Bartling

1 FOR AN ACT ENTITLED, An Act to provide for the establishment and operation of artisan
2 distillers and to revise certain provisions concerning farm wineries.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Artisan distiller," any distiller located in South Dakota that produces, rectifies, or
6 blends fifty thousand gallons or less of distilled spirits annually;

7 (2) "Department," the Department of Revenue and Regulation.

8 Section 2. The department may issue an artisan distiller license to an artisan distiller. The
9 fee for the license shall be five hundred dollars per year.

10 Section 3. No agricultural producer, association of agricultural producers, or legal agent who
11 manufactures and converts agricultural surpluses, byproducts, or wastes, into denatured ethyl
12 and industrial alcohol for the purposes other than human consumption is required to obtain an
13 artisan distiller license.

14 Section 4. An artisan distiller shall maintain records of all sales and shipments. The artisan
15 distiller shall provide to the department monthly reports regarding quantities and prices of



1 distilled spirits shipped and other information that the department determines to be necessary.

2 Section 5. Except as provided in this Act, all provisions of Title 35 apply to the production,
3 sale, possession, and consumption of distilled spirits produced by an artisan distiller.

4 Section 6. There is hereby levied on all distilled spirits produced by an artisan distillery an
5 excise tax imposed at the same rates and collected and administered in the same manner as the
6 tax imposed on distilled spirits in chapter 35-5.

7 Section 7. At least thirty percent of the raw materials used by an artisan distiller to produce
8 distilled spirits shall consist of agricultural products grown in South Dakota. If the products are
9 not available in quantities sufficient to constitute the required thirty percent, the holder of the
10 artisan distillery license may file an affidavit with the department stating this fact and requesting
11 that the department approve the use of imported products by the artisan distillery. If the
12 department approves, the artisan distillery may use imported products and shall continue to be
13 governed by this Act. The department's approval is effective for one year, after which time it
14 shall again be required that at least thirty percent of the raw materials used consist of agricultural
15 products grown in South Dakota, unless the artisan distiller files a new affidavit and request and
16 the department approves the request.

17 Section 8. For purposes of producing distilled spirits an artisan distiller may purchase or
18 receive alcoholic beverages in accordance with § 35-4-47.

19 Section 9. A license issued pursuant to section 2 of this Act authorizes the sale on the
20 distillery premises of distilled spirits produced by the artisan distillery at on-sale or off-sale, in
21 total quantities not in excess of fifty thousand gallons in a calendar year and the dispensing of
22 free samples of distilled spirits offered for sale. Except as provided in this Act, such sales shall
23 comply with the provisions of Title 35.

24 Section 10. The holder of an artisan distiller license may also hold on the premises where

1 the distilled spirit is produced an on-sale license issued pursuant to subdivision 35-4-2(4) or (6)
2 and subject to the quota established in § 35-4-11 or 35-4-11.1.

3 Section 11. The holder of an artisan distiller license shall register labels for each type or
4 brand produced with the department in the same manner and at the same manner as prescribed
5 for distilled spirits in chapter 39-13, before sale. If the label or brand states or implies in a false
6 or misleading manner a connection with an actual living or dead Native American leader, the
7 department shall reject the registration of the label.

8 Section 12. That subdivision (19) of § 35-4-2 be amended to read as follows:

9 (19) Off-sale package wine dealers in table wines, sparkling wines, ~~and~~ sacramental wine,
10 and distilled spirits produced from product provided to an artisan distiller by the
11 respective farm winery to be operated in conjunction with a farm winery established
12 pursuant to chapter 35-12--one hundred fifty dollars.

13 Section 13. That § 35-12-10 be amended to read as follows:

14 35-12-10. Notwithstanding the provisions of § 35-4-47 or 35-4-60, a farm winery licensed
15 pursuant to this chapter may sell the wine produced under the license to wholesalers and
16 retailers licensed pursuant to subdivisions 35-4-2(2), (3), (4), (5), (6), (9), (11), (12), (13), and
17 (18) and artisan distillers licensed pursuant to section 2 of this Act. A farm winery may sell to
18 an artisan distiller wine or other products containing alcohol that are produced on the premises
19 of the winery for blending or distillation by the artisan dealer.

20 Section 14. An artisan distiller may sell distilled spirits to a farm winery if the distilled
21 spirits were produced from products provided to the artisan distiller by the farm winery.